

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

United States of America,

Plaintiff,

v.

Ivan Ruiz-Avalos,

Defendant.

No. 2:21-cr-00195-KJM

ORDER

Defense counsel Clemente M. Jiménez moves this court to reconsider his appointment as attorney of record for defendant and correct the record to reflect the termination of his representation of defendant, Ivan Ruiz-Avalos. The court **grants** counsel's motion.

Defense counsel asserts the record lists him as attorney of record in error. *See generally* Mot., ECF No. 39. On January 25, 2022, the Criminal Justice Act Panel staff for the Eastern District of California asked Mr. Jiménez to represent Mr. Ruiz-Avalos in a Motion for Modification of Imposed Terms of Imprisonment. *Id.* at 1. The defendant withdrew the motion less than a week later on February 1, 2022, and Mr. Jiménez reports his representation and communication with the defendant ceased at that point. *Id.*; *see* Withdrawal Mot. Sentencing Modification, ECF No. 31.

Two years later, in July 2024, David Porter, a Federal Public Defender contacted Mr. Jiménez regarding the defendant's Motion to Vacate and/or Reduce Sentence filed July 15,

1 2024. Mot. at 1. Mr. Jiménez then realized his week-long representation, and the termination of
2 said representation did not appear on the record. *Id.* at 1–2. Defense counsel contacted the CJA
3 Panel to discuss correcting the record. *Id.* at 2. Defense counsel believed the court would issue an
4 Order Appointing Counsel from January 25, 2022 to February 1, 2022. *Id.* On September 9,
5 2024, the court filed an Order Appointing Counsel *nunc pro tunc* to January 25, 2022 and did not
6 reflect the date defense counsel’s representation ceased. *Id.* Mr. Jiménez now asks the court to
7 correct the record to reflect the termination of his representation on February 1, 2022.

8 A federal court may correct a clerical mistake or other mistakes arising from oversight or
9 omission. Fed. R. Civ. P. 60(a). The Federal Rules of Civil Procedure allow a court’s exercising
10 broad discretion in correcting the record. *Id.* A court may correct the record on motion or *sua*
11 *ponte*, with or without notice. *Id.* In reviewing the record, the court finds defense counsel
12 mistakenly appears as the attorney of record. Mr. Jiménez represented the defendant for one
13 week, two years ago. The defendant is not prejudiced or harmed by the correction as there is no
14 reasonable expectation of, or reliance on, Mr. Jiménez’s representation.

15 For the foregoing reasons, the court **grants** defense counsel’s request to correct the record
16 and reflect the termination of his representation on February 1, 2022. The record will reflect
17 Mr. Jiménez is not representing the defendant with regard to the *pro se* Motion to Reduce his
18 Sentence, ECF No. 34.

19 This order resolves ECF No. 39.

20 IT IS SO ORDERED.

21 DATED: November 13, 2024.

22 
UNITED STATES DISTRICT JUDGE